IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3770 OF 2005

Kanan Ramaswami Pariyar & Anr. ...Applicants

vs.

The State of Maharashtra ...Respondent

Ms Anjali Patil for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 5,2005.

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. The offence alleged against the Applicants is under sections 465,467,468,471, 419, 420 read with section 34 of the Indian Penal Code. On 1st February 2005 the Applicants were arrested in connection with the said offence. The earlier application for bail made by the Applicants before the Sessions Court was rejected on the ground that the investigation was incomplete. Subsequently, the Applicants made a fresh application for grant of bail after investigation was completed and the said application has been rejected.

2. The complainant is one Smt.Paranja Muttuswami Harijan. Her husband expired on 13th August 1999. After the death of her husband for two years the complainant was at the native place. After coming back the complainant made enquiries with the employer of her deceased husband. When she learnt that various amounts constituting retirement benefits of her

husband were withdrawn by one lady by name Paranja. The case of the prosecution is that the Applicants identified the co-accused Vasandha Muttuswami Harijan as the complainant Paranja Harijan. The allegation is that all the accused prepared false and fabricated documents and received a total sum of Rs.2,45,700/- which was belonging to the complainant.

3. The learned Advocate for the Applicant has placed reliance on the decision of the Apex Court reported in 2000 All M.R. (Cri) page No.1882 (Ashok Dhingra Vs. N.C.T.of Delhi) and submitted that as held by the Apex Court when the Applicants are in custody for about five months further continuation of their detention during the pre-trial stage may not be in the interest of justice. She also stated that without prejudice to their rights and contentions, the Applicants are ready and willing to pay a sum of Rs.1,00,000/- to the original complainant. She stated that the one demand draft in the sum of Rs.50,000/- and two demand drafts in the sum of Rs.25,000/- each are kept ready by the Applicants. She stated that there is an error in the said demand drafts while writing the name of the complainant. She stated that within two days from today, the corrected demand drafts will be handed over to the concerned Investigating Officer. The learned A.P.P. opposed this Application.

4. The Apex Court in case of Ashok (supra) has held as under:

"The offence now alleged against the appellant is under Sections 120-B, 420, 468, 471 and 506 of the Indian Penal Code. He is alleged to have cheated a Japanese National in whopping sum exceeding Rs.65 lacs. These are of course prima facie circumstances not entitling him to be released on bail. But on the other side we noticed that he was in custody from 5-7-1999 to 10-12-1999 and therefore, to continue to detain him during the pre-trial stage may not be in the interest of justice."

5. In the present case, investigation is completed and the charge sheet has been filed. Moreover, the Applicants have offered to pay a sum of Rs.1,00,000/- to the complainant without prejudice to their rights and contentions. In view of this position, the Applicants are entitled to be enlarged on bail.

i) The Applicants shall be enlarged on bail in connection with C.R.No.67/2005 registered with Malad Police Station, subject to furnishing a personal bond of Rs.20,000/- each with one or two local sureties in the like amount.

ii) The Applicants will be enlarged on bail only after the Investigating Officer certifies in writing to the concerned Court that the complainant has received a sum of Rs.1,00,000/-.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) It is made clear that in the event the Applicants are acquitted of the offences alleged against them, the Applicants will be entitled to take recourse to a remedy in accordance with law against the original complainant for recovery of the said amount of Rs.1,00,000/-.

viii) The parties to act upon an authenticated copy of this order.

JUDGE